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(d) Any disqualification imposed in accordance with the provisions of this section must be transmitted by the FMCSA to the jurisdiction where the driver is licensed and must become a part of the driver's record maintained by that jurisdiction.

(e) A driver who is simultaneously disqualified under this section and under other provisions of this subpart, or under State law or regulation, shall serve those disqualification periods concurrently.

[67 FR 49759, July 31, 2002, as amended at 72 FR 55700, Oct. 1, 2007]

§ 383.53 Penalties.

(a) *General rule.* Any person who violates the rules set forth in subparts B and C of this part may be subject to civil or criminal penalties as provided for in 49 U.S.C. 521(b).

(b) *Special penalties pertaining to violation of out-of-service orders—(1) Driver violations.* A driver who is convicted of violating an out-of-service order shall be subject to a civil penalty of not less than \$2,500 for a first conviction and not less than \$5,000 for a second or subsequent conviction, in addition to disqualification under § 383.51(e).

(2) *Employer violations.* An employer who is convicted of a violation of § 383.37(c) shall be subject to a civil penalty of not less than \$2,750 nor more than \$25,000.

(c) *Special penalties pertaining to railroad-highway grade crossing violations.* An employer who is convicted of a violation of § 383.37(d) must be subject to a civil penalty of not more than \$10,000.

[59 FR 26028, May 18, 1994, as amended at 64 FR 48111, Sept. 2, 1999; 67 FR 49759, July 31, 2002; 72 FR 36788, July 5, 2007]

Subpart E—Testing and Licensing Procedures

SOURCE: 53 FR 27649, July 21, 1988, unless otherwise noted.

§ 383.71 Driver application procedures.

(a) *Initial Commercial Driver's License.* Prior to obtaining a CDL, a person must meet the following requirements:

(1)(i) *Initial Commercial Driver's License applications submitted prior to January 30, 2012.* Any person applying for a

CDL prior to January 30, 2012, must meet the requirements set forth in paragraphs (a)(2) through (a)(9) of this section, and make the following applicable certification in paragraph (a)(1)(i)(A) or (B) of this section:

(A) A person who operates or expects to operate in interstate or foreign commerce, or is otherwise subject to 49 CFR part 391, must certify that he/she meets the qualification requirements contained in part 391 of this title; or

(B) A person who operates or expects to operate entirely in intrastate commerce and is not subject to part 391, is subject to State driver qualification requirements and must certify that he/she is not subject to part 391.

(ii) *Initial Commercial Driver's License applications submitted on or after January 30, 2012.* Any person applying for a CDL on or after January 30, 2012, must meet the requirements set forth in paragraphs (a)(2) through (a)(9), and (h) of this section, and make one of the following applicable certifications in paragraph (a)(ii)(A), (B), (C), or (D) of this section:

(A) *Non-excepted interstate.* A person must certify that he or she operates or expects to operate in interstate commerce, is both subject to and meets the qualification requirements under 49 CFR part 391, and is required to obtain a medical examiner's certificate by § 391.45 of this chapter;

(B) *Excepted interstate.* A person must certify that he or she operates or expects to operate in interstate commerce, but engages exclusively in transportation or operations excepted under 49 CFR 390.3(f), 391.2, 391.68 or 398.3 from all or parts of the qualification requirements of 49 CFR part 391, and is, therefore, not required to obtain a medical examiner's certificate by 49 CFR 391.45 of this chapter;

(C) *Non-excepted intrastate.* A person must certify that he or she operates only in intrastate commerce and, therefore, is subject to State driver qualification requirements; or

(D) *Excepted intrastate.* A person must certify that he or she operates in intrastate commerce, but engages exclusively in transportation or operations excepted from all or parts of the State driver qualification requirements.

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(2) Pass a knowledge test in accordance with the standards contained in Subparts G and H of this part for the type of motor vehicle the person operates or expects to operate;

(3) Pass a driving or skills test in accordance with the standards contained in Subparts G and H of this part taken in a motor vehicle which is representative of the type of motor vehicle the person operates or expects to operate; or provide evidence that he/she has successfully passed a driving test administered by an authorized third party;

(4) Certify that the motor vehicle in which the person takes the driving skills test is representative of the type of motor vehicle that person operates or expects to operate;

(5) Provide to the State of issuance the information required to be included on the CDL as specified in subpart J of this part;

(6) Certify that he/she is not subject to any disqualification under § 383.51, or

any license suspension, revocation, or cancellation under State law, and that he/she does not have a driver's license from more than one State or jurisdiction;

(7) Surrender the applicant's non-CDL driver's licenses to the State; and

(8) Provide the names of all States where the applicant was previously licensed to drive any type of motor vehicle during the previous 10 years.

(9) If applying for a hazardous materials endorsement, comply with Transportation Security Administration requirements codified in 49 CFR Part 1572, and provide proof of citizenship or immigration status as specified in Table 1 to this section. A lawful permanent resident of the United States requesting a hazardous materials endorsement must additionally provide his or her Bureau of Citizenship and Immigration Services (BCIS) Alien registration number.

TABLE 1 TO § 383.71—LIST OF ACCEPTABLE PROOFS OF CITIZENSHIP OR IMMIGRATION

Status	Proof of status
U.S. Citizen	<ul style="list-style-type: none"> • U.S. Passport. • Certificate of birth that bears an official seal and was issued by a State, county, municipal authority, or outlying possession of the United States. • Certification of Birth Abroad issued by the U.S. Department of State (Form FS-545 or DS 1350). • Certificate of Naturalization (Form N-550 or N-570). • Certificate of U.S. Citizenship (Form N-560 or N-561).
Lawful Permanent Resident	<ul style="list-style-type: none"> • Permanent Resident Card, Alien Registration Receipt Card (Form I-551). • Temporary I-551 stamp in foreign passport. • Temporary I-551 stamp on Form I-94, Arrival/Departure Record, with photograph of the bearer. • Reentry Permit (Form I-327).

(b) *License transfer.* When applying to transfer a CDL from one State of domicile to a new State domicile, an applicant shall apply for a CDL from the new State of domicile within no more than 30 days after establishing his/her new domicile. The applicant shall:

(1) Provide to the new State of domicile the certifications contained in § 383.71(a) (1) and (6):

(2) Provide to the new State of domicile updated information as specified in subpart J of this part;

(3) If the applicant wishes to retain a hazardous materials endorsement, he/she must comply with the requirements for such endorsement specified

in § 383.71(a)(9) and State requirements as specified in § 383.73(b)(4);

(4) Surrender the CDL from the old State of domicile to the new State of domicile; and

(5) Provide the names of all States where the applicant has previously been licensed to drive any type of motor vehicle during the previous 10 years.

(c) *License renewal.* When applying for a renewal of a CDL, all applicants shall:

(1) Provide certification contained in § 383.71(a)(1);

(2) Provide update information as specified in subpart J of this part; and

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(3) If a person wishes to retain a hazardous materials endorsement, he/she must comply with the requirements specified in § 383.71(a)(9) and pass the test specified in § 383.121 for such endorsement.

(4) Provide the names of all States where the applicant has previously been licensed to drive any type of motor vehicle during the previous 10 years.

(d) *License upgrades.* When applying to operate a commercial motor vehicle in a different group or endorsement from the group or endorsement in which the applicant already has a CDL, all persons shall:

(1) Provide the necessary certifications as specified in § 383.71(a)(1) and (a)(4);

(2) Pass all tests specified in § 383.71(a)(2) and (a)(3) for the new vehicle group and/or different endorsements; and

(3) To obtain a hazardous materials endorsement, comply with the requirements for such endorsement specified in § 383.71(a)(9).

(e) *Nonresident CDL.* When an applicant is domiciled in a foreign jurisdiction, as defined in § 383.5, where the commercial motor vehicle operator testing and licensing standards do not meet the standards contained in subparts G and H of this part, as determined by the Administrator, such applicant shall obtain a Nonresident CDL from a State which meets such standards. Such applicant shall:

(1) Complete the requirements to obtain a CDL contained in § 383.71(a); and

(2) After receipt of the CDL, and for as long as it is valid, notify the State which issued the CDL of any adverse action taken by any jurisdiction or governmental agency, foreign or domestic, against his/her driving privileges. Such adverse actions would include but not be limited to license suspension or revocation, or disqualification from operating a commercial motor vehicle for the convictions described in § 383.51. Notifications shall be made within the time periods specified in § 383.33.

(f) If a State uses the alternative method described in § 383.73(i) to achieve the objectives of the certifications in § 383.71(a), then the driver

applicant shall satisfy such alternative methods as are applicable to him/her with respect to initial licensing, license transfer, license renewal, and license upgrades.

(g) *Existing CDL holder's self-certification.* Every person who holds a CDL must provide to the State on or after January 30, 2012, but not later than January 30, 2014 the certification contained in § 383.71(a)(1)(ii).

(h) *Medical certification documentation required by the State.* An applicant or CDL holder who certifies to non-excepted, interstate driving operations according to § 383.71(a)(1)(ii)(A) must comply with applicable requirements in paragraphs (h)(1) through (3) of this section:

(1) *New CDL applicants.* After January 30, 2012, a new CDL applicant who certifies that he or she will operate CMVs in non-excepted, interstate commerce must provide the State with an original or copy (as required by the State) of a medical examiner's certificate prepared by a medical examiner, as defined in § 390.5 of this chapter, and the State will post a certification status of "certified" on the Commercial Driver's License Information System (CDLIS) driver record for the driver;

(2) *Existing CDL holders.* By January 30, 2014, provide the State with an original or copy (as required by the State) of a current medical examiner's certificate prepared by a medical examiner, as defined in 49 CFR 390.5, and the State will post a certification status of "certified" on CDLIS driver record for the driver. If the non-excepted, interstate CDL holder fails to provide the State with a current medical examiner's certificate, the State will post a certification status of "not-certified" in the CDLIS driver record for the driver, and initiate a CDL downgrade following State procedures in accordance with section 383.73(j)(4); and

(3) *Maintaining the medical certification status of "certified."* In order to maintain a medical certification status of "certified," after January 30, 2012, a CDL holder who certifies that he or she will operate CMVs in non-excepted, interstate commerce must provide the

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State with an original or copy (as required by the State) of each subsequently issued medical examiner's certificate.

[53 FR 27649, July 21, 1988, as amended at 67 FR 49759, July 31, 2002; 68 FR 23849, May 5, 2003; 73 FR 73123, Dec. 1, 2008; 75 FR 28500, May 21, 2010]

§ 383.72 Implied consent to alcohol testing.

Any person who holds a CDL is considered to have consented to such testing as is required by any State or jurisdiction in the enforcement of §§ 383.51(b)(2)(i) and 392.5(a)(2) of this chapter. Consent is implied by driving a commercial motor vehicle.

[66 FR 49872, Oct. 1, 2001]

§ 383.73 State procedures.

(a) *Initial licensure.* Prior to issuing a CDL to a person, a State shall:

(1) Require the driver applicant to certify, pass tests, and provide information as described in §§ 383.71(a) (1) through (6);

(2) Check that the vehicle in which the applicant takes his/her test is representative of the vehicle group the applicant has certified that he/she operates or expects to operate;

(3) Initiate and complete a check of the applicant's driving record to ensure that the person is not subject to any disqualification under § 383.51, or any license suspension, revocation, or cancellation under State law, and that the person does not have a driver's license from more than one State or jurisdiction. The record check must include, but is not limited to, the following:

(i) A check of the applicant's driving record as maintained by his/her current State of licensure, if any;

(ii) A check with the CDLIS to determine whether the driver applicant already has been issued a CDL, whether the applicant's license has been suspended, revoked, or canceled, or if the applicant has been disqualified from operating a commercial motor vehicle;

(iii) A check with the National Driver Register (NDR) to determine whether the driver applicant has:

(A) Been disqualified from operating a motor vehicle (other than a commercial motor vehicle);

(B) Had a license (other than CDL) suspended, revoked, or canceled for cause in the 3-year period ending on the date of application; or

(C) Been convicted of any offenses contained in section 205(a)(3) of the National Driver Register Act of 1982 (23 U.S.C. 401 note); and

(iv) A request for the applicant's complete driving record from all States where the applicant was previously licensed over the last 10 years to drive any type of motor vehicle. *Exception:* A State is only required to make the driving record check specified in this paragraph (a)(3) for drivers renewing a CDL for the first time after September 30, 2002, provided a notation is made on the driver's record confirming that the driver record check required by this paragraph (a)(3) has been made and noting the date it was done; and

(v) Beginning January 30, 2012, a check that the medical certification status of a driver that self-certified according to § 383.71(a)(1)(ii)(A) (non-excepted interstate) is "certified;"

(4) Require the driver applicant to surrender his/her driver's license issued by another State, if he/she has moved from another State.

(5) Beginning January 30, 2012, for drivers who certified their type of driving according to § 383.71(a)(1)(ii)(A) (non-excepted interstate) and, if the driver submits a current medical examiner's certificate, date-stamp the medical examiner's certificate, and post all required information from the medical examiner's certificate to the CDLIS driver record in accordance with paragraph (j) of this section.

(6) For persons applying for a hazardous materials endorsement, require compliance with the standards for such endorsement specified in § 383.71(a)(9).

(b) *License transfers.* Prior to issuing a CDL to a person who has a CDL from another State, a State shall:

(1) Require the driver applicant to make the certifications contained in § 383.71(a);

(2) Complete a check of the driver applicant's record as contained in § 383.73(a)(3);

(3) Request and receive updates of information specified in subpart J of this part;